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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/574,256	02/06/2007	Troy Woodcock	H0006221	7149
93136	7590	03/21/2011	EXAMINER	
HONEYWELL/PANGRL			NGUYEN, TU MINH	
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101 Columbia Road			PAPER NUMBER	
Morristown, NJ 07962-2245			3748	
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			03/21/2011	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentservices-us@honeywell.com  
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chris.james@honeywell.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/574,256	<b>Applicant(s)</b> WOODCOCK ET AL.	
	<b>Examiner</b> TU M. NGUYEN	<b>Art Unit</b> 3748	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 March 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. An Applicant's Amendment filed on December 12, 2010 has been entered. Claims 4, 5, 8, 9, 11, 13, 14, 18, 19, 22, 23, 25, 27, and 29 have been amended. Overall, claims 1-29 have been added and are pending in this application.

#### **Claim Objections**

2. Claims 10 and 24 are objected to because on lines 3 and 4 of each claim, "actuator (9)" should read --actuator member (9)--. Appropriate correction is required.

#### **Claim Rejections - 35 USC § 102**

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office Action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**4. Claims 1-13 and 15-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Pelters et al. (U.S. Patent 5,058,380).**

Re claims 1 and 15, as shown in Figure 1-3, Pelters et al. disclose an internal combustion engine (1), wherein an exhaust gas of the engine is passed through an exhaust gas passage (3), the combustion engine further comprising a variable position catalyst having:

- a catalyst housing (5) accommodating a catalyst body (4); and

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- an actuator member (6) for moving the catalyst body (4) with respect to the catalyst housing (5) such that the catalyst body (4) can be moved to an active catalyst position (as depicted in Figure 2) or to an inactive catalyst position (5),

characterized in that the catalyst body (4) is held by a cradle (a space within the plate (25)) having a plate (25), and the active catalyst position is provided in an exhaust passage, the inner wall of which is in alignment with the plate (25) when the catalyst body (4) is moved from its inactive catalyst position (5), as clearly shown in Figure 2.

Re claims 2 and 16, in the internal combustion engine and catalyst of Pelters et al., the plate (25) is disc-shaped (when the catalyst body is round).

Re claims 3 and 17, in the internal combustion engine and catalyst of Pelters et al., the active catalyst position exposed to an exhaust gas stream of the engine.

Re claims 4 and 18, in the internal combustion engine and catalyst of Pelters et al., at least the inactive catalyst position (5) is provided within the catalyst housing.

Re claims 5 and 19, in the internal combustion engine and catalyst of Pelters et al., the cradle is connected to the actuator member (6) by an actuator rod (13).

Re claims 6 and 20, in the internal combustion engine and catalyst of Pelters et al., as shown in Figure 3, the catalyst housing has a cylindrical inner shape and the cradle has a cylindrical outer shape, the inner diameter of the catalyst housing fitting to the outer diameter of the cradle.

Re claims 7 and 21, in the internal combustion engine and catalyst of Pelters et al., the cradle comprises two disc-shaped plates between which the catalyst body (4) is held.

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Re claims 8, 9, 22, and 23, in the internal combustion engine and catalyst of Pelters et al., the actuator member (6) is at least one of a pneumatic device and an electric device (see lines 13-15 of column 2).

Re claims 10 and 24, in the internal combustion engine and catalyst of Pelters et al., the actuator rod (13) moves the catalyst body (4) to the active catalyst position (5) when the actuator member (6) is actuated, and moves the catalyst body (4) to the inactive catalyst position when the actuator member (6) is released.

Re claims 11 and 25, in the internal combustion engine and catalyst of Pelters et al., the catalyst body (4), the catalyst housing and the actuator member (6) comprise one common axis along which the catalyst body (4) is movable.

Re claims 12 and 26, in the internal combustion engine and catalyst of Pelters et al., the actuator member (6) is located outside the catalyst housing, and the actuator rod (13) penetrates the catalyst housing along the common axis.

Re claims 13 and 27, in the internal combustion engine and catalyst of Pelters et al., as shown in Figure 2, the cradle comprises a leading edge which is always in contact with a portion of the catalyst housing (5) providing the inactive position.

Re claim 28, in the internal combustion engine of Pelters et al., a part of the catalyst housing constitutes a part of the exhaust gas passage (3).

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**Claim Rejections - 35 USC § 103**

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office Action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**6. Claims 14 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pelters et al. as applied to claims 1 and 15, respectively, above.**

The internal combustion engine and catalyst of Pelters et al. disclose the invention as cited above, however, fail to disclose that the engine further comprises a turbocharger for compressing the air to be supplied to the combustion engine, wherein the variable position catalyst is disposed upstream of the turbocharger.

Pelters et al. disclose the claimed invention except for applying the invention to a turbocharged engine. It would have been obvious to one having ordinary skill in the art at the time the invention was made to apply the invention of Pelters et al. to a turbocharged engine with the variable position catalyst being disposed upstream of the turbocharger, since the recitation of such amounts to an intended use statement. Note that both “turbocharged engine” and “non-turbocharged engine” generate exhaust gases containing harmful emissions of HC, NO<sub>x</sub>, soot, CO, etc, that require purification before the gases can be released to the atmosphere; and the mere selection of the invention of Pelters et al. for use in a turbocharged engine would be well within the level of ordinary skill in the art.

### **Response to Arguments**

7. Applicant's arguments with respect to the references applied in the previous Office Action have been fully considered but they are not persuasive.

In response to applicant's argument that Pelters et al. fail to disclose a catalyst body and that the catalyst body is held by a cradle having a plate (page 10 of Applicant's Amendment), the examiner respectfully disagrees.

As shown in Figures 2-3, Pelters et al. disclose a catalyst (4) which clearly has a cylindrical shaped body. Also as depicted in Figure 2, the catalyst body in Pelters et al. is held by a cradle (25) having at least a plate. Thus, Pelters et al. clearly disclose the claimed limitations in dispute.

### **Conclusion**

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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### **Communication**

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Tu Nguyen whose telephone number is (571) 272-4862.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Thomas E. Denion, can be reached on (571) 272-4859. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Tu M. Nguyen/

TMN

Tu M. Nguyen

March 11, 2011

Primary Examiner

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